

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 38, “Administration,” Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 51, “Administration,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Chapter 57, “Administration,” and Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

These amendments are proposed as a result of 2010 Iowa Acts, Senate File 2380.

Item 1 amends subrule 38.3(2) to provide that individuals should retain any records related to Iowa tax credits claimed on Iowa individual income tax returns.

Item 2 amends paragraph 42.11(3)“e” to add a cross reference to proposed new subrule 52.7(6).

Item 3 amends subrule 42.14(2) for individual income tax to provide that the election to receive a refund of unused investment tax credit is no longer available for businesses eligible under the new jobs and income program and the enterprise zone program.

Item 4 amends the implementation clause for rule 701—42.14(15).

Item 5 amends paragraph 42.19(2)“a” for individual income tax to provide that \$45 million of historic preservation and cultural and entertainment district tax credits are available starting with the fiscal year beginning July 1, 2012.

Item 6 amends the implementation clause for rule 701—42.19(404A,422).

Item 7 amends subrule 42.22(2) for individual income tax to provide that the investment tax credit for equity investments in a venture capital fund is no longer available for investments made after July 1, 2010.

Item 8 amends the implementation clause for rule 701—42.22(15E,422).

Item 9 amends paragraph 42.23(2)“c” for individual income tax to provide that the election to receive a refund of unused investment tax credit is no longer available for businesses eligible under the new capital investment program.

Item 10 amends the implementation clause for rule 701—42.23(15).

Item 11 amends rule 701—42.24(15E,422) for individual income tax to provide that the amount of endow Iowa tax credits available starting with the 2010 calendar year is \$2.7 million plus a percentage of gaming revenues.

Item 12 amends the implementation clause for rule 701—42.24(15E,422).

Item 13 amends paragraph 42.29(2)“b” for individual income tax to provide that the election to receive a refund of unused investment tax credit is no longer available for businesses eligible under the high quality jobs creation program.

Item 14 amends rule 701—42.30(15E,422) for individual income tax to provide that the economic development region revolving fund tax credit is repealed for tax years beginning on or after January 1, 2010.

Item 15 amends the implementation clause for rule 701—42.30(15E,422).

Item 16 amends subrule 42.42(1) for individual income tax to reference proposed new subrule 52.7(6) relating to changes in the calculation of the research activities credit for eligible businesses approved under the high quality jobs program.

Item 17 amends rule 701—42.45(15) for individual income tax to provide for the new aggregate tax credit limit for certain economic development programs for fiscal years beginning on or after July 1, 2010.

Item 18 amends subrule 51.3(2) to provide that corporations should retain any records related to Iowa tax credits claimed on Iowa corporation income tax returns. This is similar to the change in Item 1.

Item 19 amends subrule 52.7(5) for corporation income tax to provide that the calculation of the research activities credit for businesses eligible under the enterprise zone program has been changed for awards made by the Iowa Department of Economic Development on or after July 1, 2010.

Item 20 rennumbers subrule 52.7(6) as 52.7(7), and Item 21 adopts new subrule 52.7(6) for corporation income tax to provide for the new calculation of the research activities credit for businesses eligible under the enterprise zone program for awards made by the Iowa Department of Economic Development on or after July 1, 2010.

Item 22 amends subrule 52.10(4) for corporation income tax to provide that the election to receive a refund of unused investment tax credit is no longer available for businesses eligible under the new jobs and income program. This is similar to the change in Item 3.

Item 23 amends the implementation clause for rule 701—52.10(15).

Item 24 amends rule 701—52.12(422) to update the sequence of tax credits for corporation income tax to include the disaster recovery housing project tax credit.

Item 25 amends subrule 52.14(3) for corporation income tax to reference proposed new subrule 52.7(6) relating to changes in the calculation of the research activities credit for businesses eligible under the enterprise zone program.

Item 26 amends paragraph 52.18(2)“a” for corporation income tax to provide that \$45 million of historic preservation and cultural and entertainment district tax credits are available starting with the fiscal year beginning July 1, 2012. This is similar to the change in Item 5.

Item 27 amends the implementation clause for rule 701—52.18(422).

Item 28 amends subrule 52.21(2) for corporation income tax to provide that the investment tax credit for equity investments in a venture capital fund is no longer available for investments made after July 1, 2010. This is similar to the change in Item 7.

Item 29 amends the implementation clause for rule 701—52.21(15E,422).

Item 30 amends paragraph 52.22(2)“c” for corporation income tax to provide that the election to receive a refund of unused investment tax credit is no longer available for businesses eligible under the new capital investment program. This is similar to the change in Item 9.

Item 31 amends the implementation clause for rule 701—52.22(15).

Item 32 amends rule 701—52.23(15E) for corporation income tax to provide that the amount of endow Iowa tax credits available starting with the 2010 calendar year is \$2.7 million plus a percentage of gaming revenues. This is similar to the change in Item 11.

Item 33 amends the implementation clause for rule 701—52.23(15E).

Item 34 amends paragraph 52.28(2)“b” for corporation income tax to provide that the election to receive a refund of unused investment tax credit is no longer available for businesses eligible under the high quality jobs creation program. This is similar to the change in Item 13.

Item 35 amends rule 701—52.29(15E,422) for corporation income tax to provide that the economic development region revolving fund tax credit is repealed for tax years beginning on or after January 1, 2010. This is similar to the change in Item 14.

Item 36 amends the implementation clause for rule 701—52.29(15E,422).

Item 37 amends subrule 52.40(1) for corporation income tax to reference proposed new subrule 52.7(6) relating to changes in the calculation of the research activities credit for eligible businesses approved under the high quality jobs program. This is similar to the change in Item 16.

Item 38 amends rule 701—52.41(15) for corporation income tax to provide for the new aggregate tax credit limit for certain economic development programs for fiscal years beginning on or after July 1, 2010. This is similar to the change in Item 17.

Item 39 amends subrule 52.42(2) to correct an error regarding the disaster recovery housing project tax credit for corporation income tax.

Item 40 amends subrule 57.3(2) to provide that financial institutions should retain any records related to Iowa tax credits claimed on Iowa franchise tax returns. This is similar to the change in Items 1 and 18.

Item 41 amends subrule 58.11(2) for franchise tax to provide that the investment tax credit for equity investments in a venture capital fund is no longer available for investments made after July 1, 2010. This is similar to the change in Items 7 and 28.

Item 42 amends the implementation clause for rule 701—58.11(15E,422).

Item 43 amends rule 701—58.13(15E) for franchise tax to provide that the amount of endow Iowa tax credits available starting with the 2010 calendar year is \$2.7 million plus a percentage of gaming revenues. This is similar to the change in Items 11 and 32.

Item 44 amends the implementation clause for rule 701—58.13(15E).

Item 45 amends rule 701—58.18(15E,422) for franchise tax to provide that the economic development region revolving fund tax credit is repealed for tax years beginning on or after January 1, 2010. This is similar to the change in Items 14 and 35.

Item 46 amends the implementation clause for rule 701—58.18(15E,422).

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any. The Department has determined that these proposed amendments may have an impact on small business.

The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than August 31, 2010, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 17, 2010. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by August 27, 2010.

These amendments are intended to implement Iowa Code sections 15.119, 15.333, 15.335, 15E.51, 15E.232, 15E.305, 404A.4, 422.11G, 422.11K, 422.33 and 422.60 as amended by 2010 Iowa Acts, Senate File 2380.

The following amendments are proposed.

ITEM 1. Amend subrule 38.3(2) as follows:

38.3(2) In addition, records relating to other deductions or additions to federal adjusted income and Iowa tax credits shall be retained so long as the contents may be material in the administration of the Iowa Code under the statutes of limitations for audit specified in Iowa Code section 422.25.

ITEM 2. Amend paragraph **42.11(3)“e”** as follows:

e. An eligible business approved under the new jobs and income program prior to July 1, 2005, is eligible for an additional research activities credit as described in 701—subrule 52.7(4). An eligible business approved under the enterprise zone program is eligible for an additional research activities credit as described in 701—~~subrule~~ subrules 52.7(5) and 52.7(6).

ITEM 3. Amend subrule **42.14(2)**, first unnumbered paragraph, as follows:

Eligible businesses shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no

longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development will not issue tax credit certificates for more than \$4 million during a fiscal year for this program and eligible businesses described in subrule 42.29(2). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

ITEM 4. Amend rule **701—42.14(15)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15.333 as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 5. Amend paragraph **42.19(2)“a”** as follows:

a. Taxpayers who want to claim an income tax credit for completing a historic preservation and cultural and entertainment district project must submit an application for approval of the project. The application forms for the historic preservation and cultural and entertainment district tax credit may be requested from the State Tax Credit Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as all the available credits allocated for each fiscal year are encumbered. For fiscal years beginning on or after July 1, 2000, \$2.4 million shall be appropriated for historic preservation and cultural and entertainment district tax credits for each year. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional \$4 million of tax credits is appropriated for projects located in cultural and entertainment districts which are certified by the department of cultural affairs. If less than \$4 million of tax credits is appropriated during a fiscal year, the remaining amount shall be applied to reserved tax credits for projects not located in cultural and entertainment districts in the order of original reservation by the department of cultural affairs. For the fiscal year beginning July 1, 2007, \$10 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2008, \$15 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2009, and for subsequent fiscal years through the fiscal year beginning July 1, 2011, \$50 million in historic preservation and cultural and entertainment district tax credits is available. The allocation of the \$50 million of credits for the fiscal years year beginning on or after July 1, 2009, through the fiscal year beginning July 1, 2011, is set forth in rule 223—48.7(303,404A). For fiscal years beginning on or after July 1, 2012, \$45 million in historic preservation and cultural and entertainment district tax credits is available. Tax credits shall not be reserved by the department of cultural affairs for more than three years except for tax credits issued for contracts entered into prior to July 1, 2007.

ITEM 6. Amend rule **701—42.19(404A,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by ~~2009~~ 2010 Iowa Acts, Senate File ~~484~~ 2380, and Iowa Code section 422.11D.

ITEM 7. Amend subrule 42.22(2), introductory paragraph, as follows:

42.22(2) *Investment tax credit for an equity investment in a venture capital fund.* See rule 123—3.1(15E) for the discussion of the investment tax credit for an equity investment in a venture capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board. This credit is repealed for investments in venture capital funds made after July 1, 2010.

ITEM 8. Amend rule **701—42.22(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 15E.43, ~~15E.51~~, 15E.66, and 422.11F and sections 15E.51 and 422.11G as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 9. Amend paragraph **42.23(2)“c,”** first unnumbered paragraph, as follows:

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses

that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than \$4 million during a fiscal year to eligible businesses for this program and eligible businesses described in subrule 42.14(2). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

ITEM 10. Amend rule **701—42.23(15)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 15.333 as amended by 2010 Iowa Acts, Senate File 2380, 15.335 and 15.381 to 15.387.

ITEM 11. Amend rule **701—42.24(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 and subsequent calendar years is ~~\$3~~ \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 12. Amend rule **701—42.24(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15E.305 as amended by ~~2009~~ 2010 Iowa Acts, Senate File ~~478~~ 2380, and section 422.11H.

ITEM 13. Amend paragraph **42.29(2)“b,”** first unnumbered paragraph, as follows:

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than \$4 million during a fiscal year to eligible businesses for this program and the enterprise zone program described in subrule 42.14(2). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

ITEM 14. Amend rule 701—42.30(15E,422), introductory paragraph, as follows:

701—42.30(15E,422) Economic development region revolving fund tax credit. Effective for tax years ending on or after July 1, 2005, but beginning before January 1, 2010, a taxpayer who makes a contribution to an economic development region revolving fund may claim a tax credit, subject to the availability of the credit. The tax credit is equal to 20 percent of a taxpayer's contribution to the economic development region revolving fund approved by the Iowa department of economic development. The administrative rules for the economic development region revolving fund tax credit for the Iowa department of economic development may be found at 261—Chapter 32. The tax credit is repealed for tax years beginning on or after January 1, 2010.

ITEM 15. Amend rule **701—42.30(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 15E.232 and 422.11K as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 16. Amend subrule 42.42(1), introductory paragraph, as follows:

42.42(1) Research activities credit. An eligible business approved under the high quality jobs program is eligible for an additional research activities credit as described in 701—subrule 52.7(4) for

awards issued by the Iowa department of economic development prior to July 1, 2010. The eligible business is eligible for the research activities credit as described in 701—subrule 52.7(6) for awards issued by the Iowa department of economic development on or after July 1, 2010.

ITEM 17. Amend rule 701—42.45(15) as follows:

701—42.45(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal years year beginning on or after July 1, 2009, awards made under certain economic development programs cannot exceed \$185 million during a fiscal year. These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the film, television and video project promotion program and the high quality jobs program. Effective for fiscal years beginning on or after July 1, 2010, awards made under these economic development programs cannot exceed \$120 million during a fiscal year. The administrative rules for the aggregate tax credit limit for the Iowa department of economic development may be found at 261—Chapter 76.

This rule is intended to implement 2009 Iowa Code Supplement section 15.119 as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 18. Amend subrule 51.3(2) as follows:

51.3(2) In addition, records relating to the computation of the Iowa apportionment factor, allocable income, ~~and~~ other deductions or additions to federal taxable income and Iowa tax credits shall be retained so long as the contents may be material in the administration of the Iowa Code under the statutes of limitation for audit specified in Iowa Code section 422.25.

ITEM 19. Amend subrule 52.7(5) as follows:

52.7(5) Corporate tax research credit for increasing research activities within ~~a quality jobs an~~ enterprise zone. Effective for tax years beginning on or after January 1, 2000, for awards made by the Iowa department of economic development prior to July 1, 2010, the taxes imposed for corporate income tax purposes will be reduced by a tax credit for increasing research activities within an area designated as ~~a quality jobs an~~ enterprise zone. This credit for increasing research activities is in lieu of the research activities credit described in 701—subrule 42.11(3) or the research activities credit described in subrule 52.7(3). For the amount of the credit for increasing research activities within an enterprise zone for awards made by the Iowa department of economic development on or after July 1, 2010, see subrule 52.7(6).

a. The credit equals the sum of the following:

(1) Thirteen percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for research activities.

(2) Thirteen percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in the ~~quality jobs~~ enterprise zone to total qualified research expenditures.

b. In lieu of the credit computed under paragraph “a” of this subrule, a taxpayer may elect to compute the credit amount for qualified research expenses incurred in the ~~quality jobs~~ enterprise zone in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer's federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 3.30 percent, 4.40 percent, and 5.50 percent, respectively.

c. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit

described in ~~subrule 52.7(3)~~ paragraph 52.7(3) “b” of this rule, such amounts are limited to research activities conducted within the ~~quality jobs~~ enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2008~~ 2009.

d. Any research credit in excess of the corporation’s tax liability for the taxable year may be refunded to the taxpayer or credited to the corporation’s tax liability for the following year.

ITEM 20. Renumber subrule **52.7(6)** as **52.7(7)**.

ITEM 21. Adopt the following **new** subrule 52.7(6):

52.7(6) *Research activities credit for awards made by the Iowa department of economic development on or after July 1, 2010.* For eligible businesses approved under the enterprise zone program by the Iowa department of economic development when an award is made on or after July 1, 2010, the taxes imposed for corporate income tax purposes will be reduced by a tax credit for increasing research activities within an area designated as an enterprise zone. This credit for increasing research activities is in lieu of the research activities credit described in 701—subrule 42.11(3) or the research activities credit described in subrule 52.7(3). The amount of the credit depends upon the gross revenues of the eligible business.

a. The credit equals the sum of the following for eligible businesses with gross revenues of less than \$20 million.

(1) Sixteen and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state’s apportioned share of the qualifying expenditures for research activities.

(2) Sixteen and one-half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities. The state’s apportioned share of the qualifying expenditures for increasing research activities is a percentage equal to the ratio of qualified research expenditures in the enterprise zone to total qualified research expenditures.

b. The credit equals the sum of the following for eligible businesses with gross revenues of \$20 million or more.

(1) Nine and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state’s apportioned share of the qualifying expenditures for research activities.

(2) Nine and one-half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities. The state’s apportioned share of the qualifying expenditures for increasing research activities is a percentage equal to the ratio of qualified research expenditures in the enterprise zone to total qualified research expenditures.

c. In lieu of the credit computed under paragraphs 52.7(6) “a” and “b,” a taxpayer may elect to compute the credit amount for qualified research expenses incurred in the enterprise zone in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer’s federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code depend upon the gross revenues of the eligible business.

(1) The percentages are 4.19 percent, 5.58 percent, and 6.98 percent, respectively, for eligible businesses with gross revenues of less than \$20 million.

(2) The percentages are 2.41 percent, 3.22 percent, and 4.02 percent, respectively, for eligible businesses with gross revenues of \$20 million or more.

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 52.7(3) “b” of this rule, such amounts are limited to research activities

conducted within the enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2009.

e. Any research credit in excess of the corporation’s tax liability for the taxable year may be refunded to the taxpayer or credited to the corporation’s tax liability for the following year.

ITEM 22. Amend subrule **52.10(4)**, first unnumbered paragraph, as follows:

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development will not issue tax credit certificates for more than \$4 million during a fiscal year. If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

ITEM 23. Amend rule **701—52.10(15)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 15.331C₂ ~~as amended by 2009 Iowa Acts, Senate File 142, and sections 15.333 as amended by 2010 Iowa Acts, Senate File 2380, and 15.335.~~

ITEM 24. Amend rule 701—52.12(422) as follows:

701—52.12(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.33 and 422.110 shall be deducted in the following sequence.

1. Franchise tax credit.
2. Disaster recovery housing project tax credit.
- ~~2.~~ 3. School tuition organization tax credit.
- ~~3.~~ 4. Venture capital credits.
- ~~4.~~ 5. Endow Iowa tax credit.
- ~~5.~~ 6. Agricultural assets transfer tax credit.
- ~~6.~~ 7. Film qualified expenditure tax credit.
- ~~7.~~ 8. Film investment tax credit.
- ~~8.~~ 9. Redevelopment tax credit.
- ~~9.~~ 10. Investment tax credit.
- ~~10.~~ 11. Wind energy production tax credit.
- ~~11.~~ 12. Renewable energy tax credit.
- ~~12.~~ 13. New jobs credit.
- ~~13.~~ 14. Economic development region revolving fund tax credit.
- ~~14.~~ 15. Charitable conservation contribution tax credit.
- ~~15.~~ 16. Alternative minimum tax credit.
- ~~16.~~ 17. Historic preservation and cultural and entertainment district tax credit.
- ~~17.~~ 18. Corporate tax credit for certain sales tax paid by developer.
- ~~18.~~ 19. Ethanol blended gasoline tax credit or ethanol promotion tax credit.
- ~~19.~~ 20. Research activities credit.
- ~~20.~~ 21. Assistive device credit.
- ~~21.~~ 22. Motor fuel credit.
- ~~22.~~ 23. Wage-benefits tax credit.
- ~~23.~~ 24. Soy-based cutting tool oil tax credit.
- ~~24.~~ 25. Refundable portion of investment tax credit, as provided in subrule 52.10(4).
- ~~25.~~ 26. E-85 gasoline promotion tax credit.
- ~~26.~~ 27. Biodiesel blended fuel tax credit.
- ~~27.~~ 28. Soy-based transformer fluid tax credit.
- ~~28.~~ 29. Estimated tax and payments with vouchers.

This rule is intended to implement Iowa Code sections 15.333, 15.335, 422.33, 422.91 and 422.110.

ITEM 25. Amend subrule 52.14(3), introductory paragraph, as follows:

52.14(3) *Research activities credit.* An eligible business approved under the enterprise zone program is eligible for an additional research activities credit as described in ~~subrule~~ subrules 52.7(5) and 52.7(6).

ITEM 26. Amend paragraph **52.18(2)“a”** as follows:

a. Taxpayers who want to claim an income tax credit for completing a historic preservation and cultural and entertainment district project must submit an application for approval of the project. The application forms for the historic preservation and cultural and entertainment district tax credit may be requested from the State Tax Credit Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as all the available credits allocated for each fiscal year are encumbered. For fiscal years beginning on or after July 1, 2000, \$2.4 million shall be appropriated for historic preservation and cultural and entertainment district tax credits for each year. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional \$4 million of tax credits is appropriated for projects located in cultural and entertainment districts which are certified by the department of cultural affairs. If less than \$4 million of tax credits is appropriated during a fiscal year, the remaining amount shall be applied to reserved tax credits for projects not located in cultural and entertainment districts in the order of original reservation by the department of cultural affairs. For the fiscal year beginning July 1, 2007, \$10 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2008, \$15 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2009, ~~and for subsequent fiscal years~~ through the fiscal year beginning July 1, 2011, \$50 million in historic preservation and cultural and entertainment district tax credits is available. The allocation of the \$50 million of credits ~~for the fiscal years year beginning on or after July 1, 2009, through the fiscal year beginning July 1, 2011,~~ is set forth in rule 223—48.7(303,404A). For fiscal years beginning on or after July 1, 2012, \$45 million in historic preservation and cultural and entertainment district tax credits is available. Tax credits shall not be reserved by the department of cultural affairs for more than three years except for tax credits issued for contracts entered into prior to July 1, 2007.

ITEM 27. Amend rule **701—52.18(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by ~~2009~~ 2010 Iowa Acts, Senate File ~~484~~ 2380, and Iowa Code section 422.33.

ITEM 28. Amend subrule 52.21(2), introductory paragraph, as follows:

52.21(2) *Investment tax credit for an equity investment in a venture capital fund.* See rule 123—3.1(15E) for the discussion of the investment tax credit for an equity investment in a venture capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board. This credit is repealed for investments in venture capital funds made after July 1, 2010.

ITEM 29. Amend rule **701—52.21(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15E.43 ~~as amended by 2004 Iowa Acts, Senate File 443,~~ and sections 15E.51, 15E.66, ~~422.11F~~ and 422.33(13) as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 30. Amend paragraph **52.22(2)“c,”** first unnumbered paragraph, as follows:

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than \$4 million during a fiscal year to eligible businesses for this program and eligible businesses described in subrule 52.10(4). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

ITEM 31. Amend rule **701—52.22(15)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 15.331C, 15.333 as amended by 2010 Iowa Acts, Senate File 2380, and 15.381 to 15.387.

ITEM 32. Amend rule **701—52.23(15E)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 and subsequent calendar years is ~~\$3~~ \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 33. Amend rule **701—52.23(15E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15E.305 as amended by ~~2009~~ 2010 Iowa Acts, Senate File ~~478~~ 2380, and Iowa Code section 422.33.

ITEM 34. Amend paragraph **52.28(2)“b,”** first unnumbered paragraph, as follows:

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than \$4 million during a fiscal year to eligible businesses for this program and the enterprise zone program described in subrule 52.14(2). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

ITEM 35. Amend rule 701—52.29(15E,422), introductory paragraph, as follows:

701—52.29(15E,422) Economic development region revolving fund tax credit. Effective for tax years ending on or after July 1, 2005, but beginning before January 1, 2010, a taxpayer who makes a contribution to an economic development region revolving fund may claim a tax credit, subject to the availability of the credit. The credit is equal to 20 percent of a taxpayer's contribution to the economic development region revolving fund approved by the Iowa department of economic development. The administrative rules for the economic development region revolving fund tax credit for the Iowa department of economic development may be found at 261—Chapter 32. The tax credit is repealed for tax years beginning on or after January 1, 2010.

ITEM 36. Amend rule **701—52.29(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ sections 15E.232 and 422.33 as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 37. Amend subrule 52.40(1), introductory paragraph, as follows:

52.40(1) Research activities credit. An eligible business approved under the high quality jobs program is eligible for an additional research activities credit as described in subrule 52.7(4) for awards issued by the Iowa department of economic development prior to July 1, 2010. The eligible business is eligible for the research activities credit as described in subrule 52.7(6) for awards issued by the Iowa department of economic development on or after July 1, 2010.

ITEM 38. Amend rule 701—52.41(15) as follows:

701—52.41(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal years year beginning on or after July 1, 2009, awards made under certain economic development programs cannot exceed \$185 million during a fiscal year. These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the film, television and video project promotion program, and the high quality jobs program. Effective for fiscal years beginning on or after July 1, 2010, awards made under these economic development programs cannot exceed \$120 million during a fiscal year. The administrative rules for the aggregate tax credit limit for the Iowa department of economic development may be found at 261—Chapter 76.

This rule is intended to implement ~~2009 Iowa Acts, Senate File 483, section 4~~ 2009 Iowa Code Supplement section 15.119 as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 39. Amend subrule 52.42(2) as follows:

52.42(2) Limitation of tax credits. The tax credit shall not exceed 75 percent of the taxpayer's qualifying business investment in a disaster recovery housing project. The maximum amount of tax credits issued by the Iowa finance authority shall not exceed \$3 million in each of the five consecutive years beginning in the 2011 calendar year. A tax credit certificate shall be issued by the Iowa finance authority for each year that the credit can be claimed.

ITEM 40. Amend subrule 57.3(2) as follows:

57.3(2) In addition, records relating to computation of the Iowa apportionment factor, allocable income, ~~and other deductions or additions to federal taxable income, and Iowa tax credits~~ shall be retained so long as the contents may be material in the administration of the Iowa Code under the statutes of limitation for audit specified in Iowa Code section 422.25.

ITEM 41. Amend subrule 58.11(2), introductory paragraph, as follows:

58.11(2) Investment tax credit for an equity investment in a venture capital fund. See rule 123—3.1(15E) for the discussion of the investment tax credit for an equity investment in a venture capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board. This credit is repealed for investments in venture capital funds made after July 1, 2010.

ITEM 42. Amend rule ~~701—58.11(15E,422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15E.43 ~~as amended by 2004 Iowa Acts, Senate File 443,~~ and sections 15E.51, 15E.66, ~~422.41F and 422.60(5)~~ as amended by 2010 Iowa Acts, Senate File 2380.

ITEM 43. Amend rule ~~701—58.13(15E)~~, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 and subsequent calendar years is ~~\$3~~ \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 44. Amend rule ~~701—58.13(15E)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 15E.305 and 422.60 as amended by ~~2009~~ 2010 Iowa Acts, Senate File 478 2380 ~~, and Iowa Code section 422.60.~~

ITEM 45. Amend rule 701—58.18(15E,422), introductory paragraph, as follows:

701—58.18(15E,422) Economic development region revolving fund tax credit. Effective for tax years ending on or after July 1, 2005, but beginning before January 1, 2010, a taxpayer who makes a contribution to an economic development region revolving fund may claim a tax credit, subject to the availability of the credit. The credit is equal to 20 percent of a taxpayer's contribution to the economic development region revolving fund approved by the Iowa department of economic development. The administrative rules for the economic development region revolving fund tax credit for the Iowa department of economic development may be found at 261—Chapter 32. The tax credit is repealed for tax years beginning on or after January 1, 2010.

ITEM 46. Amend rule **701—58.18(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement sections 15E.232 and 422.60 as amended by 2010 Iowa Acts, Senate File 2380.